

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

UNITED STATES DISTRICT COURT

for the

District of

Nebraska

Douglas County

Division

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DISTRICT OF NEBRASKA
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Case No.

8:20cv225
(to be filled in by the Clerk's Office)

Mayra Saenz

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Omaha Catholic Schools
Consortium

Jury Trial: (check one)

☒ Yes☐ No

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

COMPLAINT FOR EMPLOYMENT DISCRIMINATION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Mayra Saenz
Street Address	5455 South 48th Ave
City and County	Omaha Douglas
State and Zip Code	Nebraska 68117
Telephone Number	402-306-4139
E-mail Address	mayrasaenz402@gmail.com

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	Tawnya Mann
Job or Title (if known)	Principal
Street Address	1502 S. 48th St
City and County	Omaha Douglas
State and Zip Code	Nebraska 68106
Telephone Number	402-551-3773
E-mail Address (if known)	

Defendant No. 2

Name	Chris Nelson
Job or Title (if known)	Director
Street Address	4501 S. 41st Street
City and County	Omaha Douglas
State and Zip Code	Nebraska 68107
Telephone Number	402-590-2810
E-mail Address (if known)	

Defendant No. 3

Name	
Job or Title (if known)	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address (if known)	

Defendant No. 4

Name	
Job or Title (if known)	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address (if known)	

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is

Name	Holy Cross School
Street Address	1502 S. 48th Street
City and County	Omaha Douglas
State and Zip Code	Nebraska 68106
Telephone Number	402-551-3773

This action is brought for discrimination in employment pursuant to (check all that apply):

<input checked="" type="checkbox"/>	Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).
	(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)
	Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.
	(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)
<input checked="" type="checkbox"/>	Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.
	(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)
	Other federal law (specify the federal law):
	Relevant state law (specify, if known):
	Relevant city or county law (specify, if known):

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes (check all that apply):

<input type="checkbox"/>	Failure to hire me.
<input checked="" type="checkbox"/>	Termination of my employment.
<input type="checkbox"/>	Failure to promote me.
<input checked="" type="checkbox"/>	Failure to accommodate my disability.
<input checked="" type="checkbox"/>	Unequal terms and conditions of my employment.
<input type="checkbox"/>	Retaliation.
<input type="checkbox"/>	Other acts (specify):
(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)	

C. I believe that defendant(s) (check one):

☐ is/are still committing these acts against me.



is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my (check all that apply and explain):



race

discriminatory behavior

☐ color

☐ gender/sex



religion

forcing their beliefs upon my position
not allowing me to practice my religion

☐ national origin

☐ age (year of birth)

(only when asserting a claim of age discrimination.)



disability or perceived disability (specify disability)

depression

E. The facts of my case are as follows. Attach additional pages if needed.

I was told I was not in right state of mind and she (employer - Tawnya Mann) did not read the therapist clearance to return to work. I was told I had been granted time off for my medical emergency but was not allowed to come back as my keys and email were deactivated.

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on (date)

12-14-18 (December 14, 2018)

B. The Equal Employment Opportunity Commission (check one):

☐ has not issued a Notice of Right to Sue letter.



issued a Notice of Right to Sue letter, which I received on (date) March 12, 2020

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct (check one):



60 days or more have elapsed.

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

I have depression and when there was a suicide with in ~~the~~ a staff member's family it caused me to seek medical help. I was terminated where keys revoked same day w/out any previous warning of not meeting expectations. Was told I wasn't in right state of mind. I seek compensation of my salary lost. \$35,251.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

signing:	Date of	6-8-2020	June 8, 2020
	Signature of Plaintiff	Mayra Saenz	
	Printed Name of Plaintiff	Mayra Saenz	

B. For Attorneys

signing:	Date of		
	Signature of Attorney		
	Printed Name of Attorney		
	Bar Number		
	Name of Law Firm		
	Street Address		
	State and Zip Code		
	Telephone Number		
	E-mail Address		

DISMISSAL AND NOTICE OF RIGHTS

To: **Mayra A. Saenz**
1553 N 158th Ave
Omaha, NE 68118

From: **St. Louis District Office**
1222 Spruce Street
Room 8.100
Saint Louis, MO 63103

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

32E-2019-00163

Joseph J. Wilson,
State & Local Program Manager

(314) 539-7816

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☐

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☒

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

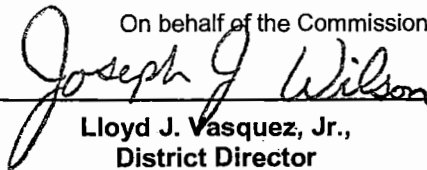
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission


Lloyd J. Vasquez, Jr.,
District Director

March 12, 2020

(Date Mailed)

Enclosures(s)

cc: **OMAHA CATHOLIC SCHOOL CONSORTIUM**
ATTN: Human Resource Director
1502 S 48th St
Omaha, NE 68106

Patrick M. Flood
PANSING, HOGAN, ERNST & BACKMAN
10250 Regency Cir, Ste 300
Omaha, NE 68114

CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER	
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input checked="" type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	NEB 1-18/19-12-50137-RS 32E-2019-00163	
Nebraska Equal Opportunity Commission and EEOC			DATE RECEIVED BY EEOC DEC 17 2018 LINCOLN OFFICE	
NAME (Indicate Mr., Ms., Mrs.) Ms. Mayra A. Saenz		HOME TELEPHONE (402) 213-3748		
STREET ADDRESS 1553 N 158th Ave Omaha NE 68118		CITY, STATE AND ZIP CODE Omaha NE 68118		DATE OF BIRTH 12/5/1979
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)				
NAME Omaha Catholic School Consortium		NUMBER OF EMPLOYEES, MEMBERS 201-500 Employees		TELEPHONE
STREET ADDRESS 1502 S 48th St Omaha NE 68106		CITY, STATE AND ZIP CODE Omaha NE 68106		COUNTY Douglas
NAME Omaha Catholic School Consortium		NUMBER OF EMPLOYEES, MEMBERS		TELEPHONE
STREET ADDRESS 3300 N 60th St Omaha NE 68104		CITY, STATE AND ZIP CODE Omaha NE 68104		COUNTY
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))			DATE DISCRIMINATION TOOK PLACE	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input checked="" type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN			EARLIEST 8/1/2018	
<input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION			LATEST 10/5/2018	
			<input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):				
<p>I. I am Hispanic/Native American, non-denominational Christian. I have a disability, record of disability, and the Respondent perceived me to have a disability. I was hired in July 2018 as a Science Teacher at Holy Cross Catholic School in Omaha. Due to my disability, record of disability, religion, and national origin, I was subjected to different terms and conditions of employment. I requested a religious accommodation which was denied and I requested a disability accommodation which was also denied. In retaliation for my requests and due to my disability, record of disability, a perceived disability, religion, and national origin, I was terminated on 9-13-18 and further subjected to different terms and conditions of employment.</p> <p>II. I believe I have been discriminated against on the bases of religion, national origin, and retaliation, in violation of Section 48-1104 and 48-1114(1) of the Nebraska Fair Employment Practice Act, and Title VII of the Civil Rights Act of 1964, as amended; and on the bases of disability, record of disability, perceived disability, and retaliation, in violation of Sections 48-1104 and 48-1114(1) of the Nebraska Fair Employment Practice Act, and The ADA Amendments Act of 2008, in that:</p> <p>1. When hired, I made Principal Tawnya Mann (non-Hispanic/White, Catholic, no known disability) aware of my disability, religion, and personal circumstances. When I started the school year I was never given a mentor to help me like the other teachers received nor was training provided me to understand and meet Mann's expectation. This lack of help made me feel singled out.</p> <p>2. I understood that I worked for a Catholic school and they have the right to teach their beliefs. I was raised Catholic but now identify as non-denominational Christian. Given this change, the Catholic curriculum went against my beliefs and against my professional judgement of abiding with Nebraska's Department of Education State Standards. I feel the doctrine within morning announcements and mass service had no place in my science classroom. I asked to be exempt from teaching their religious doctrine, without success.</p> <p>3. Before students started school in August 2018, Mann approved my curriculum plan that encompassed both Nebraska State Science Standards and the Archdiocese of Omaha Catholic Schools' Next Generation Science Standards. I met with Mann after the approval and informed her I was uncomfortable having sixth graders dissect frogs if the specimens were lab grown. In this discussion, Mann indicated anatomy and physiology was to be included in the 7th grade curriculum causing a dynamic change in the curriculum for my 6th-8th graders.</p>				

Continued on next page

Mayra A. Saenz vs. Omaha Catholic School Consortium
Page 2

4. On 8-31-18, I spoke with Mann about how the use of assistive technology (Smart Watch) would serve as an aid in meeting work expectations. This accommodation was ultimately not provided by Mann.
5. The week of 9-10-18, the stress of the job and other personal factors greatly exacerbated my disability and I realized I needed help. I called the Respondent on 9-13-18 and informed them of my mental health crisis and the secretary told me an emergency substitute would cover my classes. I then received a text from the secretary informing me I could have the next two days off to seek professional help and to recover. I replied with the assignments my students should work on during my absence. The evening of 9-13-18, there was a Curriculum Night event at school and I had planned to attend as this would be the first time for me to interact with my student's guardians and informing them of class expectations. When I arrived at school, my building access had been revoked and then Mann took my keys from me. Mann told me I was not in a mental state to perform my duties and should instead, take care of my personal life. Mann then mentioned that I should resign, adding that I would not be terminated. On 9-14-18, my therapist contacted Mann and was told Mann did in fact plan to terminate me. When I declined to resign, I was terminated without being given any reason and there had never been any conversation that my performance did not meet their standards. I was later sent a termination letter which I disagreed with and I requested specific reasons. On 9-31-18, the Respondent Director, Chris Nelson, agreed and offered to Accept my resignation and a hearing was set with the Board of Directors for 10-4-18. During this meeting, Mann gave the Board her reasons for my termination. I was then not afforded enough time to respond to her allegations as I did not have the appropriate time to review them as this was the first I learned of them. I contacted Ms. Nelson on 10-5-18 and asked for time to adequately respond to the allegations, but she refused.
6. My performance was satisfactory. Ms. Mann and Ms. Nelson do not share my ethnic and religious background and I feel these attributes along with my disability resulted in my termination. I feel an injustice has occurred and do not feel my career should be jeopardized along with the possibility of affecting the custody of my children. I am concerned the Respondent will continue to discriminate against other individuals in protected classes.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I swear or affirm that I have read the above and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

x Mayra Saenz

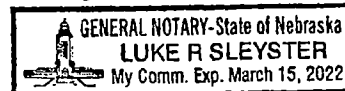
State of NEBRASKA County of Douglas

On this, the 14th day of December, 2018.

The Complainant appeared before me, known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument, and acknowledged that they executed the same for the purposes therein contained.

Notary Public [Signature]

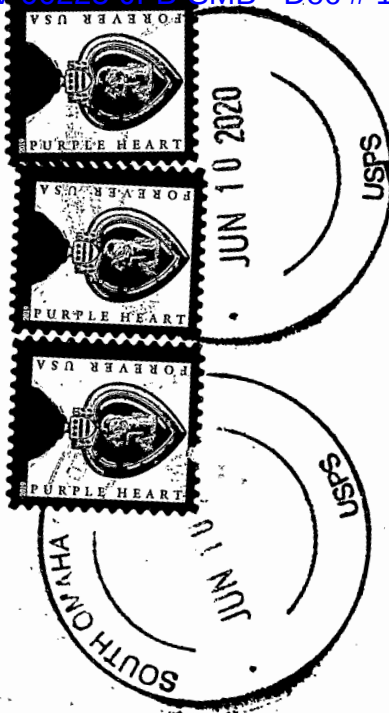
Notary Seal



From:

Mayra Saenz
5455 S. 48th Ave

Omaha NE 68117



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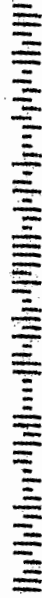
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